

112TH CONGRESS
1ST SESSION

S. 1637

AN ACT

To clarify appeal time limits in civil actions to which United States officers or employees are parties.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Appeal Time Clarifica-
3 tion Act of 2011”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) section 2107 of title 28, United States
7 Code, and rule 4 of the Federal Rules of Appellate
8 Procedure provide that the time to appeal for most
9 civil actions is 30 days, but that the appeal time for
10 all parties is 60 days when the parties in the civil
11 action include the United States, a United States of-
12 ficer, or a United States agency;

13 (2) the 60-day period should apply if one of the
14 parties is—

15 (A) the United States;

16 (B) a United States agency;

17 (C) a United States officer or employee
18 sued in an official capacity; or

19 (D) a current or former United States offi-
20 cer or employee sued in an individual capacity
21 for an act or omission occurring in connection
22 with duties performed on behalf of the United
23 States;

24 (3) section 2107 of title 28, United States
25 Code, and rule 4 of the Federal Rules of Appellate
26 Procedure (as amended to take effect on December

1 1, 2011, in accordance with section 2074 of that
 2 title) should uniformly apply the 60-day period to
 3 those civil actions relating to a Federal officer or
 4 employee sued in an individual capacity for an act
 5 or omission occurring in connection with Federal du-
 6 ties;

7 (4) the civil actions to which the 60-day periods
 8 should apply include all civil actions in which a legal
 9 officer of the United States represents the relevant
 10 officer or employee when the judgment or order is
 11 entered or in which the United States files the ap-
 12 peal for that officer or employee; and

13 (5) the application of the 60-day period in sec-
 14 tion 2107 of title 28, United States Code, and rule
 15 4 of the Federal Rules of Appellate Procedure—

16 (A) is not limited to civil actions in which
 17 representation of the United States is provided
 18 by the Department of Justice; and

19 (B) includes all civil actions in which the
 20 representation of the United States is provided
 21 by a Federal legal officer acting in an official
 22 capacity, such as civil actions in which a Mem-
 23 ber, officer, or employee of the Senate or the
 24 House of Representatives is represented by the
 25 Office of Senate Legal Counsel or the Office of

1 General Counsel of the House of Representa-
2 tives.

3 **SEC. 3. TIME FOR APPEALS TO COURT OF APPEALS.**

4 Section 2107 of title 28, United States Code, is
5 amended by striking subsection (b) and inserting the fol-
6 lowing:

7 “(b) In any such action, suit, or proceeding, the time
8 as to all parties shall be 60 days from such entry if one
9 of the parties is—

10 “(1) the United States;

11 “(2) a United States agency;

12 “(3) a United States officer or employee sued
13 in an official capacity; or

14 “(4) a current or former United States officer
15 or employee sued in an individual capacity for an act
16 or omission occurring in connection with duties per-
17 formed on behalf of the United States, including all
18 instances in which the United States represents that
19 officer or employee when the judgment, order, or de-
20 cree is entered or files the appeal for that officer or
21 employee.”.

1 **SEC. 4. EFFECTIVE DATE.**

2 The amendment made by this Act shall take effect
3 on December 1, 2011.

Passed the Senate October 31, 2011.

Attest:

Secretary.

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